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January 28, 2009

## BY HAND

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, B.C. 20463

Re: MUR 6139

Dear Mr. Jordan:

We are writing this letter on behalf of Obama for America (the "Committee") and Martin Nesbitt, as treasurer, (collectively referred to as the "Respondents") in response to the Complaint filed in the above-referenced matter by Mary E. Daniels (the "Complainant"). For the reasons set forth below, the Complaint is without merit and should be dismissed.

The Complaint stileges that Respondents have violated the Federal Election Campaign Act (the "Act") by knowingly accepting excessive contributions from individuals. They have not.

Respondents leave asked in fiell compliance with the Commission's paydrements at all times. The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a wielation of the Act. Sar 11 C.F.R. § 111.4(a), (d). Here, the Complaint presents no evidence to suggest that Respondents have ever knowingly solicited, accepted, or received excessive contributions. The Commission therefore may not find "reason to believe," and must dismiss the Complaint immediately.

Obserts for America was the principal comparing committee for President Barack Obsert's campaign for President. The values of contributions the Committee mixed, both united and through more traditional means, is unpresedented for a political campaign. To proceen them all, the Committee developed — in the entraordinarily short emount of time afforded it at the

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beginning of a two-year election-cycle – a remarkably complex and nimble vetting and compliance system. This system met and surpassed the peasedural requirements the Act and Commission regulations impose on the collection and processing of contributions. Most importantly, it ensured that the Committee did not knowingly accept contributions in excessive amounts.

The Complaint presents no evidence to suggest that the Committee did not act in full compliance with the Commission's requirements. Because the Complaint alleges no actual conduct by Resemburian that victors a statute or regulation over which ties Gommission has jurisdiction, the Complaint is without less! merit and should be diaminated.

## FACTUAL AND LEGAL ANALYSIS

## A. Comprehensive Vetting and Compliance Procedures

Before the Committee launched its fundraising program, the Committee carefully developed and implemented consprehensive westing and committee provedusus to sustane that it did not knowingly solicit, accept, or receive prohibited contributions. Pursuant to this system, and consistent with the Commission's regulations, compaign staff and satisfies wouldow were tasked with examining all contributions to the Committee once they were received—whether online, through direct mail, in person, or otherwise—for "mailence of illegality and for assocratining whether contributions received, when aggregated with other contributions from the same contributor, exceed[ed]" federal contribution limits. 11 C.F.R. § 103.3(b). Any contributions made to the Committee that were found to be excessive were promptly refunded in accordance with the Commission's regulations.

The Committee's compliance and vetting precidents included an extensive back-end process to ensure it caught and reflected any excessive errotherwise unlawful contributions. As the volume of curreibutions to the Committee increased during the course of the campaign, the Committee continuously adjusted its vetting and compliance procedures to adapt to the increased volume. At regular intervals, the Committee conducted automated searches of its donor database—including all contributions, whather raised online or not—to identify any excessive donations. Contributions from repeat donors were examined to ensure that the total amount received from a single donor did not exceed the contribution limits.

After President Obama secured the Democratic nomination, the Obama Victory Fund was established as a joint fundraising committee for the Committee and the Democratic National Committee. Pursuant to the Committee regulations, contributions received by the Obama Victory Fund verse their allowand to the Committee and the Democratic National Committee. See 11 C.F.R. § 102.17. Using its comprehensive compliance and vetting procedures, the Committee manifeld each contribution received from the Obama Victory Fund to ensure that it

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was not excessive or otherwise unlawful. Any excessive or unlawful contributions transferred from the Ohama Victory Fuzzl were premptly refunded in accordance with the Commission's regulations. The Complaint presents no evidence to suggest that the Committee did not comply at all times with the Commission's regulations, or that it ever knowingly solicited, accepted, or received excessive contributions.

## B. Resolution of Excessive Contributions Cited in Complaint

The Complaint allegen that the Committee accepted ancessive contributions from 20 individuals. In each case, the Committee has refunded the excessive contribution or contributions at issue in a manner consistent with the Commission's regulations. Any acceptance contributions were refunded prior to the Committee receiving the Complaint. The table attached as Exhibit A includes the date of the contribution, the contribution amount, the date of the refund, and the refund amount.

Given the unprecedented scope of the Committee's fundraising, Complainant speculates that the Committee must have acted in violation of federal law, and calls for further investigation of the Committee's finances and reporting. Yet unwarranted legal conclusions from asserted facts or mere appearant will not be accepted as true, and previse no independent basis for insestigation. See Commitments Mason, Sandascon, Smith and Thomas, Statument of Reasons, hIUR 4960 (Dec. 21, 2001).

The Committee's comprehensive vetting and compliance procedures speak for themselves. Not only has the Committee complied with federal law, but it has far surpassed what is required by the Act and the regulations. In every case, the Committee has used best efforts to ensure its full compliance with the Commission's requirements. The Committee has fully addressed each of the specific contributions cited in the Complaint, and the Complainant presents no evidence to further support her allegations against the Committee.

For the foregoing remains, Respendents respectivily sequest that the Commission dismiss that Complaint and take no further action.

Very truly yours

Robert F. Bauer Rebecca Gordon